

JOSEPH P. SCHMITT
Mass Treatment Center
30 Administration Road
Bridgewater, Massachusetts
02324-3230

Judge Nancy Gertner
U.S. District Court
1 Courthouse Way
Boston, Massachusetts
02210

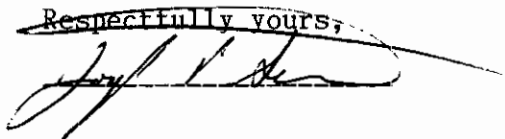
July 24, 2008

Dear Judge Gertner:

During a phone conference this past month regarding case 05-11348-NG Schmitt v. Murphy, et al. the subject of DOC attorneys requesting extensions of time under the assumption that they are overloaded due to shortage of attorneys came up and you indicated that you would inquire with the other justices to see if this issue was wide spread, and if so you said you would contact their boss and have the matter resolved.

With this matter in mind please review the attached motions. As you can see the DOC attorneys are still using the same old excuses, and in doing so violate the rights of those at the Treatment Center as we are subjected to truly unnecessary delays.

I respectfully hope that this Honorable Court will take action on behalf of true JUSTICE.

Respectfully yours,


Cc: JPS File.



Deval L. Patrick
Governor

Timothy P. Murray
Lieutenant Governor

Kevin M. Burke
Secretary

The Commonwealth of Massachusetts
Executive Office of Public Safety
Department of Correction
Massachusetts Treatment Center
30 Administration Road
Bridgewater, Massachusetts 02324-3230

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Harold W. Clarke
Commissioner

James R. Bender
Deputy Commissioner

Robert F. Murphy
Superintendent

July 3, 2008

Appeals Court Clerk's Office
John Adams Courthouse
1 Pemberton Square, Suite 1200
Boston, MA 02108-1705

RE: Eugene F. Rector v. Commonwealth
No. 2008-P-0634

Dear Sir or Madam:

I enclose for filing the following:

1. Respondent's/Appellee's Notice of Appearance;
2. Respondent's/Appellee's Motion to Enlarge Time to File Brief; and
3. Affidavit of Kristin J. Cole.

Thank you for your attention to this matter. Please call if you have any questions regarding this matter. My direct line is 508/279-8186.

Very truly yours,


Kristin J. Cole

Enclosures (3)
cc: Eugene Rector

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

**APPEALS COURT
NO. 2008-P-0634**

**EUGENE F. RECTOR,
Petitioner-Appellant,**

v.

**COMMONWEALTH,
Respondent-Appellee.**

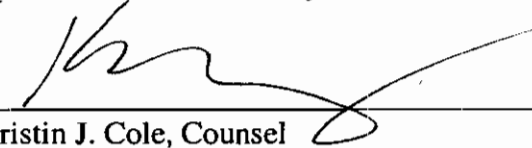
NOTICE OF APPEARANCE

Please enter my appearance on behalf of the Commonwealth.

Respectfully Submitted,
By the Respondent/Appellee,

NANCY ANKERS WHITE
Special Assistant Attorney General

By:



Kristin J. Cole, Counsel
Department of Correction
Massachusetts Treatment Center
30 Administration Road
Bridgewater, Massachusetts 02324
(508) 279-8186
BBO Number 650992

Dated: July 3, 2008

CERTIFICATE OF SERVICE

I hereby certify that I did this day serve a photocopy of the above document upon the petitioner/appellant by intra-facility mail.



Kristin J. Cole

Dated: July 3, 2008

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

**APPEALS COURT
NO. 2008-P-0634**

**EUGENE F. RECTOR,
Petitioner-Appellant,**

v.

**COMMONWEALTH,
Respondent-Appellee.**

RESPONDENT'S/APPELLEE'S MOTION TO ENLARGE TIME TO FILE BRIEF

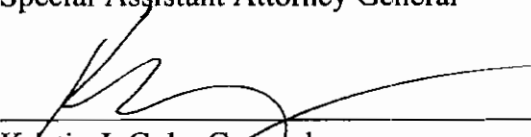
Now comes the Respondent/Appellee Commonwealth of Massachusetts and respectfully moves this Honorable Court to extend the time to file its brief in the above-captioned matter, presently due to be filed on July 23, 2008, for 120 days, until and including November 21, 2008. Additional time is necessary for the reasons outlined in the Affidavit of Kristin J. Cole, filed with this motion. This case has not been scheduled for oral argument. This enlargement of time does not prejudice the Petitioner's/Appellant's appeal as the Petitioner/Appellant has sought and received an extension of time to file his brief.

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Respectfully Submitted,
By the Respondent/Appellee,

NANCY ANKERS WHITE
Special Assistant Attorney General

By:



Kristin J. Cole, Counsel
Department of Correction
Massachusetts Treatment Center
30 Administration Road
Bridgewater, Massachusetts 02324
(508) 279-8180
BBO Number 650992

Dated: July 3, 2008

CERTIFICATE OF SERVICE

I hereby certify that I did this day serve a photocopy of the above document upon the petitioner/appellant by intra-facility mail.



Kristin J. Cole

Dated: July 3, 2008

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

**APPEALS COURT
NO. 2008-P-0634**

**EUGENE F. RECTOR,
Petitioner-Appellant,**

v.

**COMMONWEALTH,
Respondent-Appellee.**

AFFIDAVIT OF KRISTIN J. COLE

I, Kristin J. Cole, hereby depose and state as follows:

1. I am an attorney licensed to practice law in the Commonwealth of Massachusetts. I am employed as an attorney by the Department of Correction ("DOC"), based at the Massachusetts Treatment Center ("Treatment Center"). My duties as a DOC attorney include representing the Commonwealth in G.L. c. 123A, § 9 proceedings in which a sexually dangerous person ("SDP") petitions the Superior Court for his release from his civil commitment to the Treatment Center. In these hearings, it is the Commonwealth's burden to prove beyond a reasonable doubt that the petitioner remains a sexually dangerous person. These cases are managed in a unified session at Suffolk. These cases are highly fact intensive, involve expert testimony and require significant trial preparation. These cases are typically tried before a jury.

2. Beginning on April 10, 2008, I represented the Commonwealth at a § 9 jury trial before Hinkle, J. (*Starkus v. Commonwealth*). This trial lasted eight days and ended on April 22, 2008. Beginning on April 28, 2008, I represented the Commonwealth at a § 9 jury trial before Hogan, J. (*Nicholls v. Commonwealth*). This trial lasted five days (with no court proceedings on May 1, 2008 and May 2, 2008) and ended on May 6, 2008. Beginning on May 27, 2008, I represented the Commonwealth at a § 9 jury trial before Hogan, J. (*Duteau v. Commonwealth*). This trial lasted 4 days and ended on May 30, 2008. Beginning on June 26, 2008, I represented the Commonwealth at a § 9 jury trial before Zobel, J., (*John Dutcher v. Commonwealth*). This trial lasted four days and ended on July 2, 2008. Based on the current § 9 schedule, I expect to represent the Commonwealth in the following jury trials between July, 2008 and November, 2008: *Baillargeon v. Commonwealth* (July 28, 2008); *Anderson v. Commonwealth* (August 25, 2008); and I expect to represent the Commonwealth in at least three additional jury trials, one per month, for the months of September, 2008 through November, 2008.

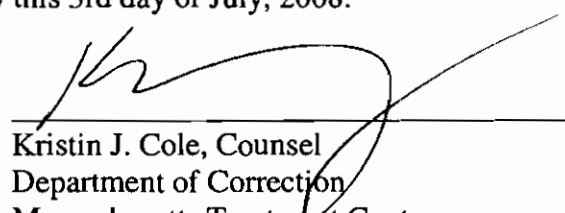
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3. In addition, I represent the Commonwealth and various DOC officials and employees in civil litigation brought against them by persons currently or previously in DOC's custody and have various pleadings due by the end of July. Also, I am out of the office from October 1, 2008 until October 15, 2008.

4. The extension to November 21, 2008, is requested in order to allow sufficient time to prepare for the Section 9 jury trials and to attend to the other professional obligations described above.

Signed under the penalties of perjury this 3rd day of July, 2008.

By:



Kristin J. Cole, Counsel
Department of Correction
Massachusetts Treatment Center
30 Administration Road
Bridgewater, Massachusetts 02324
(508) 279-8180
BBO Number 650992

JOSEPH P. SCHMITT
Mass Treatment Center
30 Administration Road
Bridgewater, Massachusetts
02324-3230

Rachael A. Michaud, Esq.
Swomley & Associates
227 Lewis Wharf
Boston, Massachusetts
02110-3927

July 9, 2008

RE: Nadeau v. Comm. SUCR2006-10677

Dear Attorney Michaud:

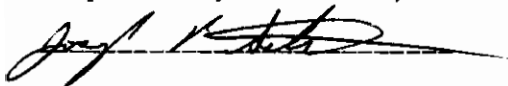
Mr. Nadeau approached me yesterday and showed me the July 7, 2008 letter from you and the attached "Commonwealth's Motion To Enlarge Time To Respond."

After reviewing this above-noted motion I feel it worthy to inform you that just last month, during a teleconference with Judge Nancy Gertner, it was brought up by me that the DOC attorneys have habitually been requesting enlargements of time to respond to various motions, using the same worn out reasons such as heavy case loads, lack of attorneys, Judge Gertner stated that she was personally going to question the other U.S. District Court Justices to see if this was a trend before the other courts. Judge Gertner stated that if this was the case she would notify the attorneys boss and have the issue dealt with.

I request that you bring this matter to the immediate attention of Judge Nancy Gertner at the U.S. District Court in Boston. This sort of continued action on the part of DOC attorneys must be halted without delay as it does very much create a prejudice against petitioners like Mr. Edward Nadeau.

I thank you for your attention and action in the above matter.

Respectfully submitted,



Cc: Edward Nadeau,
Judge Nancy Gertner,
JPS.

COMMONWEALTH OF MASSACHUSETTS

**HAMPDEN, ss.
[Unified Session at Suffolk]**

**SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
NO. SUCR2006-10677**

**EDWARD NADEAU,
Petitioner,**

v.

**COMMONWEALTH OF
MASSACHUSETTS,
Respondant.**

COMMONWEALTH'S MOTION TO ENLARGE TIME TO RESPOND

The Respondent, Commonwealth of Massachusetts, respectfully requests that this Court enlarge the time to file an opposition to the Petitioner's Motion for Judgment Notwithstanding the Verdict or for New Trial, up to and including July 31, 2003.

As grounds therefor, the Commonwealth, through counsel, states that counsel is out of the office from June 30, 2008 through July 7, 2008. In addition, counsel has a heavy caseload, has just completed a G.L. c. 123A, § 9 jury trial (Cote v. Commonwealth, 2001-11182), and is scheduled to commence a G.L. c. 123A, § 9 jury trial on July 15, 2003 (Lyons v. Commonwealth, Unified Session/Suffolk No. 2006-10775). Such trials are fact-intensive and require significant preparation. Furthermore, counsel requires additional time to review the allegations made in the Petitioner's motion in order to prepare a meaningful response.

This delay does not prejudice the Petitioner.

Respondent Commonwealth of
Massachusetts,
Respectfully Submitted,
By Its Attorney

NANCY ANKERS WHITE
Special Assistant Attorney General

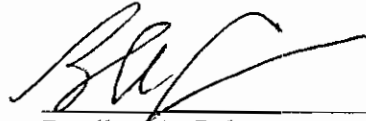
by: 

Brendan Frigault, Counsel
Bradley A. Sultan, Counsel
Department of Correction
Massachusetts Treatment Center
30 Administration Road
Bridgewater, Massachusetts 02324
Telephone: (508) 279-8180
Facsimile : (508) 279-8181
Dated: May 20, 2003
BBO Number 659533

CERTIFICATE OF SERVICE

I hereby state under the pains and penalties of perjury that I did this day serve a photocopy of the above document upon the Petitioner by first-class mail to:

Eric Tennen, Esq.
Swomley & Associates
227 Lewis Wharf
Boston, MA 02110


Bradley A. Sultan

Dated: July 3, 2008